



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

08/013070
APPLICATION NUMBER FILING DATE FIRST NAMED APPLICANT ATTORNEY DOCKET NO.
08/613,070 03/08/96 TOTH D ATOMIC-2

LEONARD TACHNER
SUITE 295
3990 WESTERLY PLACE
NEWPORT BEACH CA 92660

33M1/0429

EXAMINER
ASHER, K

ART UNIT PAPER NUMBER
3312

DATE MAILED: 04/29/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

Responsive to communication(s) filed on 3/8/96
 This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 2 months month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1 - 10 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
 Claim(s) _____ is/are allowed.
 Claim(s) _____ is/are rejected.
 Claim(s) 1 - 10 is/are objected to.
 Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
 The drawing(s) filed on _____ is/are objected to by the Examiner.
 The proposed drawing correction, filed on _____ is approved disapproved.
 The specification is objected to by the Examiner.
 The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 All Some* None of the CERTIFIED copies of the priority documents have been received.
 received in Application No. (Series Code/Serial Number) _____.
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of Reference Cited, PTO-892
 Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
 Interview Summary, PTO-413
 Notice of Draftsperson's Patent Drawing Review, PTO-948
 Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

5

This application is in condition for allowance except for the following formal matters: .

- 1) Applicant's description of figure 2 found on page 12, lines 28+, is not consistent with the actual illustration. Figure 2 does not show the diaphragm/pivot lever urging the sharp edge 19 away from seat 46. Instead the opposite is shown. The Brief Description of the Drawings states that figure 2 illustrates the pressurized configuration. This is consistent with what is illustrated. Put another way, applicant has not provided an illustration of an inhalation, i.e. open position of the valve - see specification, page 8, lines 6-17. Correction, without the addition of new matter, is required.
- 15 2) Figure 4 is not described at all in the Detailed Description.
- 3) The subject matter of claim 6 is not illustrated, specifically, the orifice external perimeter must be illustrated.
- 20 4) Claims 1-9 use inconsistent claim terminology. Specifically, claim 1 recites "an elastic seal" and claim 7 recites "said elastomeric seal". Consistency is required as well as review of all claims for consistent terminology.

Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

25 ***A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE TWO (2) MONTHS FROM THE DATE OF THIS LETTER.***

Serial No. 08/613,070
Art Unit 3312

A COMPLETE RESPONSE TO THIS OFFICE ACTION MUST INCLUDE DRAFT RED INK DRAWING CORRECTIONS FOR EACH DRAWING INFORMALITY NOTED ABOVE.

5 *Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner K. L. Asher at telephone number (703) 308-0858.*

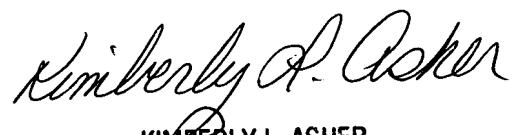
10 *Any inquiry of a general nature should be directed to the Group receptionist at (703) 308-0858.*

Status inquiries are to be handled according to MPEP section 203, and directed to the Group receptionist, not the Examiner.

15 *Inquiries as to Terminal Disclaimer and PCT requirements should be directed to the Group Paralegal, Mr. Andre Robinson, at (703) 308-2104.*

20 *The facsimile phone number for Art Unit 3312 is (703) 308 - 3139. **PLEASE CALL THE EXAMINER PRIOR TO SENDING ANY FAX.** This will ensure that the Examiner receives the fax promptly.*

April 25, 1997


KIMBERLY L. ASHER
PRIMARY EXAMINER
GROUP 3300